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November 24, 1997

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FEDERAL COMMUNICATIONS COMMISSION
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Via Hand Delivery

Magalie Roman Salas, Secretary
Federal Communications Commission
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Room 222
Washington, DC 20554

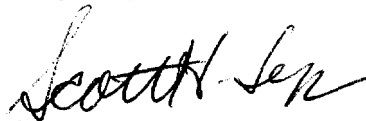
Re: DiGiPH PCS, Inc.
Petition for Reconsideration, WT Docket No. 97-82

Dear Ms. Salas:

On behalf of DiGiPH PCS, Inc. ("DiGiPH") and pursuant to Section 1.429 of the Commission's Rules, transmitted herewith are an original and eleven (11) copies of a Petition for Reconsideration in the following proceeding: Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licenses, WT Docket No. 97-82, Second Report and Order and Further Notice of Proposed Rulemaking, released October 16, 1997.

If you have any questions with respect to this matter, please do not hesitate to call.

Very truly yours,


Scott H. Lyon

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
)
Amendment of the Commission's)
Rules Regarding Installment Payment)
Financing for Personal Communications)
Services (PCS) Licenses)
_____)

WT Docket No. 97-82

To: The Commission

PETITION FOR RECONSIDERATION

DigiPH PCS, INC.

Michael K. Kurtis
Scott H. Lyon

Its Attorneys

Kurtis & Associates, P.C.
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SUMMARY

DiGiPH argues that the Commission should reconsider the five year build exception to the “all-or-nothing” requirement of the Second R&O amnesty option. Specifically, DiGiPH argues that the Commission should reconsider the September 25, 1997 cut-off for attaining the five year build out and should allow those entities which meet their five year build out by January 15, 1997 (the date of the election under the Second R&O) to be eligible for the exception to the “all-or-nothing” rule. Alternatively, DiGiPH asserts that the Commission should reconsider the “all-or-nothing” rule and allow entities to return licenses for all BTAs in a particular MTA. Such an option would avoid punishing those entities which have invested heavily in their build out and have operated pursuant to the Commission’s rules. Such a revision to the amnesty option grants flexibility to those entities which relied on the Commission’s original rules without increasing the likelihood of “cherry picking”.

In addition, DiGiPH argues that the Commission must avoid punishing those entities which made the March 31, 1997 interest payment. Thus, in fairness, such licensees should be allowed a credit equal to the commercial cost of funds during the make-up period, or the Commission should return the funds plus accumulated interest.

DiGiPH also demonstrates that the only fair treatment for those entities which made their payments on time and proceeded to build out their networks is to allow a reduction in their debt equal to the average reduction in the price of licenses on reauction.

Finally, DiGiPH asserts that the Commission’s “affordability” standard of the prepayment option is unworkable and must be clarified.

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WT Docket No. 97-82

To: The Commission

PETITION FOR RECONSIDERATION

DigiPH PCS, Inc.¹ ("DigiPH"), by counsel, and pursuant to Rule 1.429 of the Federal Communications Commission's ("FCC" or "Commission") rules² hereby seeks reconsideration of the Commission's decision³ in the above-reference proceeding. In support thereof, the following is respectfully shown.

BACKGROUND

In the Second R&O, the Commission adopted a "menu" of restructuring options which allows financially troubled licensees in the Personal Communications Services ("PCS") C block to disaggregate and surrender fifteen MHz of their spectrum, return licenses for all thirty MHz of their spectrum for certain BTAs, prepay some or all of their obligations, or continue paying

¹ DigiPH, bid in the C block auction under the name Mobile Tri-States L.P. 130, and holds licenses for eight (8) BTAs in Florida, Alabama and Mississippi.

² 47 C.F.R. § 1.429.

³ In the Matter of Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licenses, *Second Report and Order and Further Notice of Proposed Rule Making*, WT Docket No. 97-82 (released October 16, 1997)(hereinafter "Second R&O").

under their current note(s). The Commission stated that one of the prominent goals of the Second R&O is to "[e]nsure fairness to all participants in our auctions, including those who won licenses in the auctions and those who did not, as well as licensees in competing services."⁴ DigiPH asserts that certain aspects of the Second R&O penalize those entities who, like DigiPH, have justifiably relied on the Commission's original rules and proceeded to build out their systems. DigiPH asserts that the Commission's decision unfairly disadvantages those licensees who are nearly ready to launch their networks commercially, and thus, under the options provided by the Second R&O, are not in a position to surrender their licenses or disaggregate their spectrum,⁵ but will face the certain consequences of license devaluation and market insecurity surrounding a cash-only reauction, if others elect those options.

ARGUMENT

I. The Commission Should Reconsider the Five-Year Build Out Exception to the "Amnesty" Option

A. Licensees Which Meet the Five-Year Build Out by the Election Date Should be Exempt from the All-Or-Nothing Rule

Under the "amnesty" option of the Second R&O, a C block licensee may return *all* of its licenses in exchange for relief from its outstanding debt and any default payments. The only exception to the "all-or-nothing" rule permits those licensees which have met their five-year build out requirement for any BTA by September 25, 1997 (the date of the adoption of the

⁴ Second R&O ¶ 2.

⁵ Those licensees who have made significant progress in their build outs "do not have the same flexibility as other licensees to disaggregate or participate in a 'full price buy out'." In the Matter of Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licenses, WT Docket No. 97-82, *Affirming and Dissenting Separate Statement of Chairman Reed E. Hundt Re: C Block Financing Issues*, at 6 (released October 16, 1997) (hereinafter "Chairman's Separate Statement").

Second R&O) to retain licenses for *all* BTAs it holds in that MTA.⁶ DigiPH requests that the Commission reconsider the date upon which a licensee must have met its five-year build out for exception to the “all or nothing” rule. Specifically, DigiPH asserts that the Commission should allow those licensees which have met their five-year build out requirement by January 15, 1998 (the date of the election under the Second R&O⁷) should not be subject to the all-or-nothing rule. This will allow greater flexibility to those licensees who have diligently pursued the build out of their networks, while also encouraging the rapid provision of service to the public.

The Commission did not supply a reason for the selection of the September 25, 1997 date, and it appears to have been arbitrarily chosen. Apparently, the Commission selected this date to prevent licensees from selectively choosing which BTAs to build out and thereby “cherry picking” the best licenses and returning only undesirable licenses to the Commission for reauction.⁸ However, it is extremely unlikely, if not impossible, for a licensee to build out a BTA to the five-year level before January 15, 1998, unless it had substantially commenced its build out prior to September 25, 1997. Thus, “cherry picking” cannot occur because only those licensees who have already invested significantly in a particular BTA will be able to meet the five-year build out by January 15. A licensee could only take advantage of the build out

⁶ For example, a licensee who holds licenses in several BTAs spread across two MTAs and has built out one BTA by September 25, 1997, will have the option of keeping its licenses for all BTAs in the MTA where the built out BTA is located. The licensee can return to the Commission licenses for all BTAs in the MTA where it has not met the five-year build out. *See* Second R&O ¶ 57.

⁷ *See* Second R&O ¶ 70.

⁸ *See, e.g.,* Second R&O ¶¶ 38, 56. “These provisions prevent licensees from selectively surrendering spectrum for which they may believe that they paid too much, or otherwise discarding spectrum in markets that may be more difficult to serve (commonly referred to as ‘cherry picking’ of licenses or spectrum).”

exception, if it had already committed significant capital, personnel, resources and effort to a particular BTA. Even if extending the deadline does encourage a licensee to “speed up” its build out in order to take advantage of the exception, this would only have the positive effect of speeding service to the public—one of the primary goals of the Communications Act of 1934, as amended, that has been asserted by the Commission on several occasions.⁹

B. Licensees Should Not Have to Meet the Five-Year Build Out in Order to Surrender Licenses on a Per MTA Basis

Alternatively, the Commission should consider amending the amnesty provision to allow licensees to return licenses for all BTAs on a per MTA basis, separate and apart from having met the five-year build out provisions, consistent with the approach adopted by the Commission with respect to disaggregation (see *infra*). As noted in the Second R&O, the build out exception to the “all-or-nothing” amnesty provision is meant to “facilitate[] the achievement of the statutory goal set forth in Section 309(j) that [the FCC] encourage the rapid provision of service to the public, and respond[] to the needs of licensees that have already commenced operations *or have otherwise invested significantly in certain of their C block licenses*.”¹⁰ DigiPH asserts that the option to surrender the licenses for all BTAs within an MTA should be available even to licensees that have not met the five-year build out.

First, retaining the requirement of surrendering all BTA licenses within a given MTA will prevent the “cherry picking” that the Commission wishes to avoid, and will promote the return of licenses in blocks of sufficient size for viable reauction.¹¹ In addition, even though a licensee has

⁹ See Second R&O ¶ 57, 47 U.S.C. § 309(j).

¹⁰ Second R&O ¶ 57 (emphasis added).

¹¹ For example, in its discussion of the disaggregation option, the Commission noted that disaggregating on an MTA basis would provide only a “limited opportunity to ‘pick and choose’

not met its five-year build out requirement, it may still have “invested heavily in certain of [its] C block licenses.”¹² The Commission specifically noted that the intent of its Second R&O is to treat fairly those entities which have proceeded under the initial rules and have made progress in bringing service to the public, and competition to the marketplace.¹³

Unfortunately, the five-year build out does not provide an accurate determination of whether a licensee has been diligent in attempting to bring service to its market. In fact, a licensee who has not attained its five-year build out may have made significant progress toward providing service to the public. For example, a licensee with C block licenses for 10 BTAs spread over two MTAs could have concentrated its build out efforts in only one BTA (*e.g.*, an urban BTA with the greatest concentration of population). That licensee could have met its build out for the one BTA and then, under the Commission’s Second R&O, it would be allowed to keep all of its BTAs in that MTA and surrender all of its BTAs in the other MTA. However, a similar licensee which concentrated its build out efforts on five BTAs, but has not yet attained the five-year build out requirement for one or more of the BTAs would not be allowed to take advantage of the build out exception. As demonstrated by this example, the five-year build out requirement does not further the Commission’s goal of preventing cherry picking. DigiPH

which licenses to disaggregate”. See Second R&O ¶ 44. Providing for amnesty on an MTA basis certainly does not provide any greater opportunity for “cherry picking” than it does for disaggregation. Yet the Second R&O allows for disaggregation on an MTA basis but provides for surrender on only an all-or-nothing basis (with the five-year build out exception).

¹² Second R&O ¶ 57.

¹³ “The Commission has an interest in minimizing the competitive impact of the changes that it makes to the auction rules, consistent with its broader policy objectives. The exception we adopt today is one method by which we can ensure that the menu of options available to the C block is fair to those licensees that have rapidly built-out their markets and initiated provision of competitive service.” *Id.*

asserts that imposing a requirement that licensees return all licenses within an MTA provides sufficient protection; the same as afforded under this approach adopted under the disaggregation option.

The Commission did indicate that because of the inherent flexibility of the disaggregation option, it did not need to offer a five year build out exception. "In cases where a licensee has built-out a BTA, it can choose either to retain all 30 MHz in each of the BTAs it has licenses for in an MTA, or it can operate its built-out system with 15 MHz. We believe that this flexibility, compared with the 'all-or-nothing' approach mitigates the need for a build-out exception for this option."¹⁴ Unfortunately, the "flexibility" to operate its system on only 15 MHz is little comfort to a licensee who is near completion of its build out. Indeed the "real-world" impact of a C block licensee disaggregating 15 MHz of its spectrum, under the rules as presently adopted, would be to open its marketplace for another C block competitor who, in all likelihood, will pay substantially less for its spectrum than the surrendering licensee.

The Commission's misplaced fear of cherry picking should be subordinated to achieving greater flexibility for licensees who have met their payments and justifiably relied on the Commission's original plan for the C block. Ultimately this will promote the goals of diversification in the market and expanded opportunities for small businesses and designated entities. The other restructuring options under the Second R&O are offered on an MTA-wide basis. Other than to suggest that the disaggregation option offers greater flexibility to licensees, no plausible reason is offered for treating the amnesty provision differently. For these reasons,

¹⁴ Second R&O ¶ 38.

DigiPH requests that similar to the disaggregation option, the Commission allow for surrender of all BTA licenses in a particular MTA, rather than on an all-or-nothing basis.

II. Fairness and the Preservation of the Integrity of the Auction Program Requires that The Commission Equitably Credit Those Entities Which Made the March 31, 1997 Installment Payment

DigiPH strongly urges the Commission, in fairness to these entities that timely tendered their March 31, 1997 payment, to reconsider its decision on the payment of suspension interest. Under the Second R&O, interest which accrued during the suspension period will be paid in eight additional installments to be included with each regular, quarterly payment. The Second R&O is silent with respect to charging interest on these missed payments or whether, as the Second R&O implies, licensees are being permitted to simply pay late without any interest due for these payments. Most disturbing is the fact that the Second R&O does not address what happens to those licensees that timely tendered their regular installment payment on March 31, 1997. While the Commission purports to base its restructuring order on the issue of fundamental fairness to those licensees that have continuously "played by the rules," the release of the March 31, 1997 suspension notice was far too late to afford entities, such as DigiPH, who intended to timely meet their payment, to stop the wire transfer of funds to the FCC. As a result, only licensees who were going to miss the March 31, 1997 wireline payment benefited from that late-released order. Moreover, upon submission of that payment, DigiPH filed a request for its immediate return,¹⁵ a request upon which the Commission never even acted. The Commission's

¹⁵ See Letter to Regina Dorsey, Chief, Billings and Collection Branch, from Jeanne M. Walsh, dated April 9, 1997, attached hereto as Exhibit A.

silence on this issue, even in the Second R&O does nothing to “ensure fairness” to parties such as DigiPH. As a result, a licensee who intended to miss the payment is further rewarded by the Second R&O with the continued use of its money for three years—the equivalent of a no-interest government loan. However, DigiPH followed the Commission’s rules, made timely payment, and as a result, lost the use of that money. DigiPH could have devoted that money to build out of its network. In addition, start-up companies like DigiPH must finance their license payments. Thus, DigiPH not only lost the use of its money, but it had to pay interest at higher, commercial (not government) rates during this interim year. In light of the forgoing, the FCC must make parties who met their March 31, 1997 payment obligation whole, by taking one of the following actions: (1) to give licensees, such as DigiPH, who paid the March 31, 1997 payment, a credit against future installments equal to the commercial cost of funds paid by the licensees during the period from March 31, 1997 until that payment is “made-up” by all other licensees; or (2) to return those funds plus accumulated interest at a commercial rate to the licensees, allowing such licensees to repay these funds under the same terms as licensees who failed to make the March 31, 1997 payments.

III. The Commission Should Reduce the Debt of Those Licensees Who Retain Their Licenses to Account for Any Devaluation of C Block Licenses on Reauction

Fundamental fairness mandates that the Commission offer relief for those entities that made their payments on time and proceeded to build out their networks as envisioned by the Commission’s initial rules, but now face massive market repercussions as an unintended consequence of the FCC’s action in this proceeding. Specifically, it is extremely likely that the reauction of licenses will result in lower bids for licenses on reauction. First, the Commission

has proposed eliminating installment payments for bidders who obtain licenses on reauction. Since installment payments were offered in the initial auction, bidders factored the time value of money into their business plans, auction strategies and bid amounts. Now, the Commission has proposed to reauction the returned spectrum without an installment option. Without the ability to leverage the cost of their licenses, bidders in the reauction will adjust their strategies downward to reflect this change in the rules. As a result, the reauctioned licenses will be sold for considerably less.

Marketplace changes are partly responsible for the devaluation of the spectrum held by C block licensees. For example, since the close of the initial C block auction, the Commission has auctioned the D, E and F block spectrum; the A and B block licensees have benefited from a two-year head start on building their networks; bidders in the WCS auction obtained licenses for spectacularly low prices; the second and third largest C block licensees have filed for bankruptcy; and the announcement of future auctions threatens to glut the market for spectrum. Under these circumstances, a large-scale reauction will most certainly result in significantly lower prices for reauctioned licenses. Moreover, all of the negative press and FCC actions subsequent to the close of the initial C block auction have also led to the wide-spread perception that the C block, as a whole, was grossly over-valued. The unprecedented action of the FCC now modifying its rules to allow bidders with “buyer’s remorse” to walk-away from their obligations, only feeds that marketplace perception.

The obvious intent of the Second R&O is to provide options for relief of those C block entities who find themselves in dire financial straits due to the myriad of unforeseen changes in the wireless marketplace since the close of the initial auction. In assisting those entities in financial trouble, the Commission must be mindful of the interests of those entities which met

their obligations, justifiably relied on the Commission's initial rules, and are building (or have built) their networks. Clearly, a reauction at this time will result in lower prices for C block licenses. Consequently, this will devalue the licenses obtained at the initial auction and not surrendered for reauction, placing entities like DigiPH at a serious disadvantage for funds in the marketplace compared to its competitors who obtain licenses at reduced costs under the reauction. In addition, to the extent allowed by Commission rules, DigiPH's licenses underlie the collateral for its private financing. The payments made to date by DigiPH, which reflect equity in those authorizations, would be substantially reduced by a devaluation of that primary asset. Thus, a devaluation of licenses jeopardizes DigiPH's financing and harms the overall value of the company. The only way to prevent significant harm to those licensees that relied on the Commission's original rules is to make those licensees whole based on the devaluation of their licenses. As a result, if the Commission elects to proceed as proposed, the only means of protecting the licensees who retain their licenses is to reduce the debt of those licensees in an amount equal to the average reduction in price for licenses sold on reauction.

First and foremost among the Commission's stated goals in adopting the Second R&O is "[m]aintaining the integrity of the Commission's rules and auction processes."¹⁶ Fair treatment of those entities which bid responsibly and followed the original rules is essential to this goal. Specifically, the Commission must not take actions which harm those licensees who honored all

¹⁶ Second R&O ¶ 2. The Commission has reiterated this goal in several other proceedings. See, e.g., In Re Application of Mercury PCS II, LLC for Facilities in the Broadband Personal Communications Systems in the D, E, and F Blocks, *Notice of Apparent Liability for Forfeiture*, FCC Docket No. 97-388 ¶ 12 (released October 28, 1997); In the Matter of Carolina PCS I Limited Partnership Request for Waiver of Section 24.711(a)(2) of the Commission's Rules, *Order*, DA 97-890 ¶ 8 (released April 28, 1997); In the Matter of BDPCS, Inc., Emergency Petition for Waiver of Section 24.711(a)(2) of the Commission's Rules, *Memorandum Opinion and Order*, FCC 96-498, 12 FCC Rcd 3230 (1997).

of their auction obligations. To *again* change the rules after the close of the initial auction, and thereby create competitive inequities among licensees in the same block of service is clearly bad policy making. Such unequal treatment of C block licensees, to the disadvantage of those licensees which sought only to meet their obligations to the FCC, undermines faith in the Commission's auction rules as a whole, and is extremely detrimental to the integrity of the auction process. Thus, DigiPH urges the Commission to protect compliant C Block licensees by reducing their debt of those C block licensees equal to the average reduction in cost for licenses sold at reauction.

IV. The Standard for Determining Whether an Entity Can Afford to Prepay its Payment Obligations is Impermissibly Vague and Completely Unworkable

The Second R&O allows for prepayment of installment obligations. Those entities which wish to prepay any portion of their debt must do so on an MTA-wide basis. However, the Second R&O allows for an exception such that "any licensee that has enough funds on hand to prepay one or more BTAs within that MTA, but not enough for the entire MTA, must prepay all of those BTAs within that MTA *that it can afford*."¹⁷ Obviously, what a licensee "can afford" is subject to differing interpretations. Without further definition, this standard is totally unworkable. In addition, the Second R&O is unclear as to what happens to those licenses which the licensee cannot "afford" to prepay. Are these licenses surrendered to the FCC, or may the licensee continue to operate under the terms of its original C block note with respect to those licenses? If the first interpretation is correct, then this option will create more opportunities for

¹⁷ Second R&O ¶ 67 (emphasis added).

cherry picking than either the disaggregation or the amnesty option.¹⁸ If the second interpretation is correct, then rather than provide “relief,” the FCC has merely implemented a pre-payment penalty on the notes. In any event, the application of this option must be clarified and the “affordability” standard must be more tightly defined.

V. CONCLUSION

Several aspects of the Commission’s Second R&O are detrimental to those C block licensees who have done nothing but follow the rules and proceed with the build out of their networks. DigiPH specifically requests that the Commission allow licensees that have met the five-year build out provision by the election date be allowed to surrender licenses on an MTA-wide basis. In the alternative, DigiPH requests that the Commission allow amnesty on an MTA-wide basis without requiring build out to the five-year level. These requested changes offer greater flexibility to those licensees which have progressed in the build out of their networks without any real increase in the likelihood or opportunity of cherry picking, while speeding the provision of service to the public over that already sanctioned under the disaggregation option.

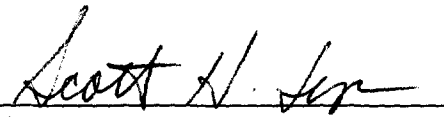
The options offered under the Second R&O will force those entities which are not in a position to surrender licenses or spectrum because of the arbitrary restrictions based on those options in the Second R&O, to pay proportionately higher prices for their licenses and place them at a significant competitive disadvantage. This devalues the licenses of those entities who have complied, and seek only to continue complying, with the original C block rules. DigiPH

¹⁸ The Commission has gone to great lengths to prevent cherry picking under the other menu options. However, the “all you can afford” exception allows for prepayment of less than all of the BTAs in a particular MTA, (even the exceptions to the amnesty and disaggregation provisions require disaggregation or surrender on an MTA-wide basis). Therefore, the opportunities for cherry picking under this provision are significant.

asserts that the only way to be fair to those licensees which bid responsibly, obtained financing, and proceeded with their build out is to provide a credit on the cost of their licenses equal to the average reduction in cost of licenses sold at reauction. Lastly, DigiPH submits that the Commission must deal equitably with the entities that made timely submission or their March 31, 1997 installment payment.

Respectfully submitted,

DigiPH PCS, Inc.

By: 
Michael K. Kurtis
Scott H. Lyon

Its Attorneys

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Dated: November 24, 1997

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Federal Communications Commission
Office of Secretary

Hand Delivered

Regina Dorsey, Chief
Billings and Collections Branch
Federal Communications Commission
1919 M Street, N.W.
Room 450
Washington, DC 20554

Re: DigiPH PCS, Inc.
Refund of Suspended Installment Payment
For C Block Broadband Personal Communications Service Licensee

Dear Ms. Dorsey:

DigiPH PCS, Inc. ("DigiPH"),¹ by its attorneys, hereby submits a formal request for refund of DigiPH's March 31, 1997 \$1,177,234.17 installment payment for its C Block broadband Personal Communications Service licenses. DigiPH tendered this March 31, 1997 installment payment in a timely manner. On that very date, the Wireless Telecommunications Bureau, however, adopted and released an Order which suspended the March 31, 1997 deadline for installment payments for all broadband C Block PCS licensees until further notice. A copy of this Order is attached for your reference as Exhibit A.

DigiPH tendered its \$1,177,234.17 installment by wire transfer to ensure timely submission of its March 31, 1997 payment obligation. The timing of the Commission adoption and release of its Order suspending the March 31, 1997 deadline was too late to allow DigiPH to stop its pre-arranged payment. Ironically, given the lateness of the release of the Order, it is unlikely that any C Block licensee intending to fulfill its March 31, 1997 payment obligation in a timely manner could have reacted to the Commission's Order in sufficient time to cancel its payment. While the Commission Rules clearly allow a grace period for the submission of installment payments without triggering an event of default, it cannot be the Commission's intent to allow its Order to only benefit those C Block licensees who were not intending to make timely

¹ On March 21, 1997, the FCC granted the transfer of control of Mobile Tri-States, L.P. to DigiPH Communication, Inc., and the assignment of broadband PCS licenses from Mobile Tri-States, L.P. to DigiPH PCS, Inc. (FCC File Nos. 50074-CW-TC-97, 50075-CW-AL-97). These transactions have been consummated.

Regina Dorsey, Chief
April 9, 1997
Page 2

payment. DigiPH, a small business ultimately owned by two rural telephone companies, would greatly benefit by allocating this suspended installment payment towards other build-out expenses to speed deployment of its PCS system.

On its face, the Commission Order applies to *all* C Block licensees. Accordingly, to deny DigiPH's request would not only be inconsistent with the Order but would have the unintended consequence of penalizing C Block licensees which sought to comply, and in fact did comply, with the Commission's rules and make timely payments, while conferring a benefit on those licensees which did not make such timely payments. Clearly, the Commission must treat all C Block licensees similarly with respect to the submissions of installment payments. Melody Music, Inc. v. FCC, 345 F.2d 2029 (D.C. Cir. 1965).

DigiPH submitted its payment by wire transfer and requests its refund by wire transfer as well. The account information necessary for the Commission to refund DigiPH's installment by wire transfer is attached hereto as Exhibit B.

If you have any questions or require additional information with respect to this matter, please communicate directly with this office.

Very truly yours,



Jeanne M. Walsh

cc (hand delivered): Kathleen O. Ham
Jerome B. Fowlkes